

109TH CONGRESS  
1ST SESSION

# H. R. 4193

To amend the Internal Revenue Code of 1986 to waive the 10-percent additional tax on early distributions from section 401(k) plans in the case of hardship of certain employees due to facility closures, employers in bankruptcy, or plan termination proceedings.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2005

Mr. RYAN of Ohio introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to waive the 10-percent additional tax on early distributions from section 401(k) plans in the case of hardship of certain employees due to facility closures, employers in bankruptcy, or plan termination proceedings.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “401(k) Penalty Relief  
5       Act of 2005”.

1 **SEC. 2. 10-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS**  
 2 **TIONS FROM QUALIFIED RETIREMENT PLANS**  
 3 **NOT TO APPLY TO CERTAIN HARDSHIP DIS-**  
 4 **TRIBUTIONS FROM SECTION 401(k) PLANS.**

5 (a) IN GENERAL.—Subparagraph (A) of section  
 6 72(t)(2) of the Internal Revenue Code of 1986 is amended  
 7 by striking “or” at the end of clause (vi), by striking the  
 8 period at the end of clause (vii) and inserting “, or”, and  
 9 by adding at the end the following new clause:

10 “(viii) made from a cash or deferred  
 11 arrangement (as defined in section 401(k))  
 12 upon the hardship of the employee if the  
 13 adjusted gross income of the taxpayer for  
 14 the taxable year (determined without re-  
 15 gard to such distributions) in which such  
 16 distribution is received does not exceed  
 17 \$100,000 (\$200,000 in the case of a joint  
 18 return) and—

19 “(I) the employer maintaining  
 20 the plan of which such arrangement is  
 21 a part is a debtor in a title 11 or  
 22 similar case (as defined in section  
 23 368(a)(3)),

24 “(II) proceedings have been com-  
 25 menced under the Employee Retire-

1                   ment Income Security Act of 1974 to  
2                   terminate such plan, or

3                   “(III) the employee separates  
4                   from employment on account of the  
5                   closure of a facility of the employer.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to distributions after the date of  
8 the enactment of this Act.

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